

48

| | | | |
|-------------------------------|------------------------|---------------------|--|
| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/668,041 | PANEK ET AL. | |
| | Examiner | Art Unit | |
| | Rip A. Lee | 1713 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to November 2, 2005.
2. ☒ The allowed claim(s) is/are 1, 3-5, 7 and 8.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
|--|--|

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance: Claims 1, 3-5, 7, and 8 are allowed over the closest references cited below.

The present invention is drawn to a thermoplastic composition consisting essentially of: (i) a blend of one or more polyolefin homopolymer resins, (ii) from about 17 wt % to about 30 wt % of one or more rubbery copolymers comprising at least one alpha olefin, (iii) from about 1.0 to about 8.0 wt % of one or more nonionic surfactant, and (iv) mineral oil or polybutene, provided that the mineral oil or polybutene is present in an amount that does not exceed 8 wt %.

Nakazawa *et al.* (JP 56-005842) discloses a composition consisting essentially of 100 pw of a polyolefin (isotactic polypropylene) homopolymer, 1-20 pw of a polyolefin-based rubber (ethylene-propylene/butene copolymer), 10-30 pw of polybutene, and 0.1-10 pw of sorbitan fatty acid ester (nonionic surfactant). The amount of polybutene exceeds the 8 wt % upper limit defined in the instant claims. According to the inventors, use of less than 10 wt % of polybutene results in the loss of desired adhesiveness of the overall composition. Thus, the patent teaches away from use of the claimed range of polybutene, and accordingly, one of ordinary skill in the art would not have found it obvious to modify the invention of Nakazawa *et al.* in order to arrive at the subject matter of the instant claims.

Radovanovic *et al.* (U.S. 6,096,213) teaches a thermoplastic composition consisting essentially of 30 wt % of a 30:70 blend of polypropylene homopolymer and ethylene/hexene copolymer and 70 wt % of a 70:30 blend of mineral oil and nonionic surfactant. This translates to a composition consisting essentially of 9 wt % polypropylene, 21 wt % of ethylene/hexene copolymer, 49 wt % of mineral oil, and 21 wt % of surfactant. Clearly, the amounts of components lie outside the ranges permitted in the instant claims.

Art Unit: 1713

Doshi *et al.* (U.S. 5,569,693) teaches a composition comprising 40-80 wt % of polyethylene homopolymer, 20-60 wt % of flexible semi-crystalline polyeththylene copolymer, 3-9 wt % of liquid polyolefin (*i.e.*, polybutene), and 0.1-4 wt % of surfactant. The amount of copolymer lies outside the range recited in the instant claims. Absent any motivation, teaching or suggestion to do so, One of ordinary skill in the art would not have found it obvious to modify the prior art in order to arrive at the subject matter of the instant claims.

Mor (U.S. 5,096,940) discloses a polymeric composition comprising 90-90 wt % of LDPE (polyethylene homopolymer), 1-5 wt % of LLDPE (ethylene/ α -olefin copolymer), and 1-5 wt % of polyethyleneoxide sorbitan monooleate. There is no teaching of use of mineral oil or polybutene as softening agent/processing aid. Also, the amount of copolymer lies outside the claimed range.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Art Unit: 1713

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

ral

November 25, 2005


DAVID W. WU
SUPERVISORY PATENT EXAMINER
EBC CENTER 1700